

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

No. 7:05-CR-42 -1-F
No. 7:12-CV-146-F

DAVID MALCOLM JONES,)
Petitioner,)
v.)
UNITED STATES OF AMERICA,)
Respondent.)

ORDER

This Government has filed a "Motion to Allow" [DE-128] with regard to petitioner David Malcolm Jones's May 30, 2012, Motion to Vacate, Set Aside or Correct, pursuant to 28 U.S.C. § 2255 [DE-121] and United States v. Simmons, 649 F.3d 237 (4th Cir. 2011). The court has carefully considered Jones' motion and the Government's response thereto, and concludes that Jones is entitled to relief.

Accordingly, both Jones' § 2255 motion [DE-121] and the Government's Motion to Allow [DE-128] are ALLOWED for the reasons set forth in the Government's Memorandum [DE-129]. Jones' conviction entered by Judgment [DE-56] is VACATED, and the Probation Officer's Motion to Revoke Supervised Release [DE-107] is DENIED.¹ It is ORDERED that Jones be released from custody, subject to any pending detainers.

Jones' Motion for Appointment of New Counsel [DE-127] is DENIED as moot.

SO ORDERED.

This, the 28th day of September, 2012.


JAMES C. FOX
Senior United States District Judge

¹ See also Minute Entry of June 7, 2012 [DE-122] (holding motion for revocation in abeyance pending ruling on Jones' Simmons motion).